## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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) ) Civil Action No. 98-CV-5591
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## DEFENDANT'S MOTION FOR JUDGMENT ON PARTIAL FINDINGS

Defendant respectfully submits this written motion to accompany his November 7, 2006 oral motion for Judgment on Partial Findings pursuant to Federal Rule of Civil Procedure 52(c). Defendant avers that Plaintiffs have not established their claims through the evidence proffered in their case in chief. In support of his motion Defendant states as follows:

- 1. Plaintiffs have not demonstrated that they maintain standing to challenge the Child Online Protection Act ("COPA"). Specifically, Plaintiffs have failed to show a reasonable fear of prosecution through objective evidence as opposed to their purely subjective beliefs. Plaintiffs have also failed to demonstrate that COPA will impair their business operations. Defendant incorporates by reference his Motion to Dismiss and memoranda in support thereof, and his Trial Memorandum.
- 2. Plaintiffs have not submitted evidence that there are lesser restrictive means to further the government's compelling interest in protecting children. For example, Plaintiffs' support regarding their filtering argument, as proffered by Dr. Cranor, was simply anecdotal.
  - 3. Plaintiffs have not submitted evidence that COPA is overly broad.

- 4. Plaintiffs have failed to meet their burden on their claim regarding the rights of older minors.
  - 5. Plaintiffs have failed to meet their burden on their claim regarding anonymity.

Respectfully submitted,

PETER D. KEISLER Assistant Attorney General

PATRICK L. MEEHAN United States Attorney RICHARD BERNSTEIN Assistant U.S. Attorney

THEODORE C. HIRT Assistant Branch Director RAPHAEL O. GOMEZ Senior Trial Counsel

\_/s/ Tamara Ulrich ERIC J. BEANE ISAAC CAMPBELL JOEL McELVAIN KENNETH SEALLS JAMES TODD TAMARA ULRICH Trial Attorneys United States Department of Justice Civil Division, Federal Programs Branch 20 Massachusetts Ave., N.W. Washington, D.C. 20530 (202) 305-1432

## CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2006, I caused the foregoing Defendant's Motion for Judgment on Partial Findings to be filed electronically and therefore to be available for viewing and downloading from the Electronic Case Filing system. The electronic filing of this document constituted service of this document on the following liaison counsel:

Aden Fine American Civil Liberties Union 125 Broad Street, 18<sup>th</sup> Floor New York, NY 10004

/s/ Tamara L. Ulrich
TAMARA L. ULRICH